





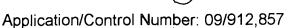
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,857	07/25/2001	Charles D. Petrie	PC10843AMAG	6128
28880 7	7590 09/12/2003			
WARNER-LAMBERT COMPANY 2800 PLYMOUTH RD ANN ARBOR, MI 48105			EXAMINER	
			KRASS, FREDERICK F	
			ART UNIT	PAPER NUMBER
			1614 DATE MAILED: 09/12/2003	12

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	09/912,857	PETRIE ET AL.				
Office Action Summary	Examiner	Art Unit				
•	Frederick Krass	1614				
Th MAILING DATE of this communication app						
Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  Status						
1) Responsive to communication(s) filed on <u>26 June 2003</u> .						
2a)⊠ This action is <b>FINAL</b> . 2b)□ Thi	s action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims	in the application					
4) Claim(s) 1-12,15-21 and 26-38 is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5)  Claim(s) is/are allowed. 6)						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9) The specification is objected to by the Examiner.						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12) ☐ The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
14)⊠ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
a) The translation of the foreign language pro-						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal	y (PTO-413) Paper No(s) Patent Application (PTO-152)				



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### **Obviousness Rejection**

1) Claims 1-21 and 26-38 were rejected as being unpatentable over WO 97/41879 in view of WO 97/24369.

This rejection has been rendered moot by Applicant's amendment.

2) Claims 1-21 and 26-38 were rejected as being unpatentable over WO 00/12047 in view of WO 97/24369.

This rejection is maintained and is now applicable to claims 1-12, 15-21 and 26-38.

Applicant argues that instant claim 1, as amended, is directed to a method for improving the functional health status of a patient "whose physical performance has declined as the result of age, not as the result of trauma or disease". (See the third paragraph on page 6 of Applicant's response). The examiner disagrees with this interpretation of the scope of the claimed subject matter. The claim in fact recites age—"related" decline in physical performance, which is not necessarily coextensive with physical performance which has decline as a result of age. In other words, the claim is not restricted to physical decline caused by age, but is inclusive of physical decline from another cause and which accompanies (is "related" to) aging.

And that is exactly what the prior art discloses. Specifically, it teaches the treatment of functional losses resulting from deconditioning in elderly patients. (See for

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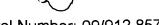
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example the first full paragraph of the document). The physical decline which accompanies this deconditioning is contributed by age, and thus is "age-related" as required by the instant claims. And, as the patient begins to recover losses in functionality, various other functional indicia will be improved as a necessary corollary thereto, i.e. energy level, cognitive function, mental acuity, performance in the workplace, socialization, etc.

#### Action is Final

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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## Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick Krass whose telephone number is (703) 308-4335. The examiner can normally be reached on Monday, Tuesday and Thursday from 9am to 5pm, and on Fridays from 11am to 7pm. The examiner is off Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached at (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0193.

Frederick Krass Primary Examiner Art Unit 1614